

Subsection (k) of Section 22a-174-20 of the Regulations of Connecticut State Agencies is amended to read as follows:

(k) Restrictions on VOC emissions from cutback and emulsified asphalt.

[(k)](1) Definitions. For the purposes of [as used in] this subsection:

"Asphalt" means a dark brown [cementitious material which is solid, semisolid, or liquid in consistency and in which the predominating constituents are bitumens which] to black solid, liquid or semisolid cementitious material composed primarily of bitumens that occur in nature [as such] or [which] are obtained as residue in refining petroleum.

["Class 8 Bituminous Concrete" means material specified as Class 8 Bituminous Concrete in the most current version of the state of Connecticut, Department of Transportation Standard Specifications for Roads, Bridges and Incidental Construction".

"Cutback Asphalt" means asphalt which has been liquefied by blending with more than seven percent "organic compounds" by volume as determined by American Society for Testing and Materials' Distillation Test D-244.

"Medium-Curing Cutback Asphalt" means the material which meets the specifications of the American Society for Testing and Materials Designation D 2028.

"Penetrating Prime Coat" means an application of low-viscosity liquid asphalt to an absorbent surface which is used to prepare an untreated base prior to the application of an asphalt surface.]

"Cutback asphalt" means asphalt that has been liquefied by blending with a diluent of petroleum solvents or any other diluent that contains VOC.

"Emulsified asphalt" means an emulsion of asphalt and water that contains a small amount of an emulsifying agent; it is a heterogeneous system containing two normally immiscible phases (asphalt and water) in which the water forms the continuous phase of the emulsion, and minute globules of asphalt form the discontinuous phase.

[(k)(2) After October 1, 1985 no "person" shall store, use or apply cutback asphalt during the months of June, July, August and September unless less than five percent (5%) of the total solvent contained in such cutback asphalt evaporates at a temperature up to and including five hundred degrees Fahrenheit (500°F) as determined by ASTM Method D-402, except that:

- (A) Medium-Curing Cutback Asphalt may be used solely as a penetrating prime coat for aggregate bases prior to paving.
- (B) Medium-Curing Cutback Asphalt may be used for the manufacture of materials for long-period storage or stockpiling of patching mixes used in pavement maintenance.
- (C) Class 8 Bituminous Concrete may be used at any time for surface treatments under one inch, for crack filling, relief joints, minor leveling or pothole patching.]

(2) Applicability.

This subsection shall apply to any person who, on or after May 1, 2008, stores, uses, solicits the use of, or applies asphalt for road paving, maintenance or repair.

(3) Standards.

Except with prior written approval of the Commissioner as provided in subdivision (4) of this subsection, during the period from May 1 through September 30 of any calendar year, no person shall store, use or apply:

(A) Cutback asphalt; or

(B) Emulsified asphalt, unless such asphalt complies with the requirements of subdivision (5) of this subsection.

(4) Excepted activities.

(A) The Commissioner may approve a request to store, use or apply cutback asphalt or emulsified asphalt that does not comply with subdivision (5) of this subsection.

(B) Any request made for an approval under this subdivision shall be made in writing to the Commissioner and shall include, at a minimum, the following information:

(i) The scope of the activity.

(ii) An assessment of alternative materials and procedures.

(iii) Quantification of the amount of VOC that would be emitted as a result of such activity.

(iv) The dates during which the activity will occur, and

(v) A demonstration that the activity is required to occur during the ozone season.

(C) Notwithstanding subdivision (3) of this subsection, any person who stores any asphalt during the period of time from October 1 through April 30, may continue to store such asphalt during May 1 through September 30 provided that the asphalt is stored in an enclosed container.

(5) Compliance procedures.

Any person who stores, uses or applies emulsified asphalt for road paving, maintenance, or repair shall possess documentation that such asphalt, as applied, conforms to one of the following specifications:

(A) The asphalt, as applied, was formulated to contain not greater than 0.1% VOC by weight; or

- (B) The asphalt, as applied, as tested by ASTM Method D 244 or AASHTO Method T 59 produces not greater than 0.5 milliliter of oil distillate by distillation.

(6) Recordkeeping.

- (A) Any person engaging in an activity subject to this subsection shall:
- (i) Maintain records of information necessary for the Commissioner to determine compliance with the requirements of this subsection.
 - (ii) Maintain all records required pursuant to this subsection in a readily accessible location in Connecticut for a minimum of five (5) years, and
 - (iii) Provide records made pursuant to this subsection to the Commissioner within thirty (30) days of a request to provide such records.
- (B) Any person who has obtained an exemption pursuant to subdivision (4) of this subsection shall maintain copies of the request, all supporting materials and the written approval of the Commissioner.

Statement of purpose: This subsection is revised to further reduce emissions of volatile organic compounds from asphalt paving through the application of a Reasonably Available Control Technology (RACT) update and to clarify the requirements of the subsection. The emissions reductions associated with these revisions will support Connecticut's effort to attain the National Ambient Air Quality Standard for 8-hour ozone and Connecticut's RACT State Implementation Plan.